

BEFORE THE STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE

IN THE MATTER OF:)	ORDER No. 2006-001
)	
National Council on Compensation Insurance,)	Refunds to Employers Based on
901 Peninsula Corporate Circle)	the Exclusion of Payroll Data
Boca Raton, Florida 33487.)	Used to Develop Classification
)	Code Relativities for Loss Costs
)	Effective April 1, 2003 and July 1,
)	2004 and Assigned Risk Rates
)	Effective February 1, 2005

This matter comes before me pursuant to information and data provided by the National Council on Compensation Insurance ("NCCI") concerning the exclusion of payroll data used to develop classification code relativities. This order is also being issued in anticipation of the final orders from the Administrative Law Court in *NCCI v. South Carolina Department of Insurance*, Docket No. 05-ALJ-09-0277-CC, setting workers compensation advisory loss costs for South Carolina's voluntary market, and *Consumer Advocate for South Carolina v. South Carolina Department of Insurance*, Docket No. 05-ALJ-09-0406-CC, setting rates for the assigned risk plan. It is being issued at this time so that NCCI may start making the preparations necessary to enable insurers to promptly issue refunds following the orders of the Administrative Law Court.

Based upon the information provided by NCCI regarding the excluded payroll issue, I find and conclude as follows:

FINDINGS OF FACT:

1. South Carolina loss costs effective April 1, 2003 and July 1, 2004, and assigned risk rates effective February 1, 2005, were calculated based on incomplete payroll data for a limited number of classifications.
2. Since payroll data is only used to develop classification code relativities, which determine how the overall loss cost change is allocated among the different classification codes and is not part of the aggregate financial information that provides the basis for overall loss cost calculations, these data did not impact the calculation of the overall loss cost changes for any loss cost filing. There were, however, minor distortions in the advisory loss costs for certain classification codes for the voluntary market filings effective April 1, 2003 and July 1, 2004, and for the assigned risk rates effective February 1, 2005.

3. By the time of the submission of the July 1, 2005 advisory loss cost filing and October 10, 2005 assigned risk rate order, both of which are currently pending before the Administrative Law Court, the payroll data issue had been resolved and had no effect on the classifications in that filing or order.
4. The understatement of payroll resulted in an overstatement of the advisory loss costs and assigned risk rates for approximately 60 out of 600 classifications, which may have resulted in premium overcharges for some policyholders and undercharges for others.
5. Because insurers utilize various pricing practices, including scheduled rating, retrospective rating, credits and discounts, NCCI is unable to determine the exact premium impact for individual policyholders. The estimated potential premium impact for the last three years is approximately .5% of total premium. The average estimated premium impact on most policyholders affected by the understatement of payroll is less than \$250 per policy, although NCCI estimates that the potential premium impact for a small number of the larger policyholders may be in excess of \$5,000.
6. Accordingly, refunds must be made for all policyholders within the timeframe(s) set forth below.

In anticipation of the Administrative Law Court's final ruling, it is ordered that:

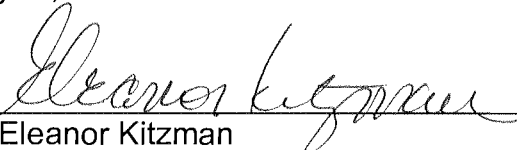
1. Within 15 days of the effective date¹ of the approved 2005 loss costs ("effective date"), NCCI shall file amended loss costs with the Department to correct the classification code relativities in the loss costs effective April 1, 2003, July 1, 2004 and the assigned risk rates effective February 1, 2005 and their allocation for the 60 class codes that were affected ("amended loss costs").
2. Within 30 days of the Department's approval of the amended loss costs, NCCI shall provide each insurer with a list of that insurer's policies containing the affected classification codes and shall provide the Department with a copy of the information provided to each insurer.
3. Within 60 days' receipt of the list of affected policies from NCCI, insurers shall research each affected policy and determine the amount of any premium adjustment.
4. Within 90 days' receipt of the list of affected policies from NCCI, appropriate premium refunds shall be made to the policyholder, either by refund check or

¹ "Effective date" is the date set in the final order from the Administrative Law Court that comports with S.C. Code Ann. § 1-23-350 and SCALC Rule 29(C) and from which the time for all parties to appeal has expired or the date the amended filing correcting the 2003 and 2004 loss costs has been approved by the Department whichever is later.

audit adjustment. If audits for 2005 have not been completed by the aforementioned deadline, the insurer shall advise the policyholder and the Department of the amount of the adjustment to be made and the anticipated date of audit.

5. Within 120 days of the Department's approval of the amended loss costs, insurers shall provide the Department with a report of all premium adjustments, including policyholder name, policy inception date, adjustment amount, method of adjustment (refund or audit), and date of adjustment.
6. These adjustments apply to policies issued utilizing the voluntary market loss costs effective April 1, 2003 and July 1, 2004, and the assigned risk rates effective February 1, 2005.
7. Insurers shall **not** pursue collection of any additional premium in any manner from any **policyholder** which may have been undercharged as a result of the exclusion of this data.

IT IS SO ORDERED this 17th day of August, 2006.


Eleanor Kitzman
Director

Columbia, South Carolina